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EXAMINER

ALI, SYED J

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/823,141
Filing Date: March 30, 2001
Appellant(s): SHTEYN, YEVGENIY EUGENE

Larry Liberchuk
Reg. No. 40,352
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 21, 2005 appealing from the Office action mailed May 17, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-6, 10-18 are rejected under 35 U.S.C. § 102(e) as being anticipated by Fernandez et al. (USPN 6,697,103) (hereinafter Fernandez).

As per claim 1, Fernandez teaches the invention as claimed, including a task management system for use in a home environment for managing a task scheduled in advance (col. 4 lines 17-22) and involving a user moving an object from a first location to a second location (col. 2 lines 13-20), the system comprising:

(a) a tag attached to said object (col. 5 lines 46-57);

- (b) a first sensor fixedly positioned in a path of travel of said object from said first location to said second location (col. 3 lines 60-67), said first sensor configured to:
 - (i) remotely sense the presence of said object at a first intermediate location between said first and second locations via said tag attached to said object (col. 3 lines 55-57; col. 6 lines 5-10);
 - (ii) transmit a first signal responsive to the remote sensing of the presence of said object at said first intermediate location between said first and second locations (col. 6 lines 16-23, 30-32, 50-52);
 - (iii) remotely sense the absence of said object at said first intermediate location between said first and second locations via said tag attached to said object, subsequent to said transmission of said first signal (col. 3 lines 60-67; col. 6 lines 5-10); and
 - (iv) transmit a second signal responsive to the remote sensing of the absence of said object at said first intermediate location between said first and second locations (col. 6 lines 16-23, 30-32, 50-52);
- (c) scheduling means configured for scheduling said task (col. 4 lines 17-22; col. 9 lines 26-32);
- (d) monitoring means for:
 - (i) receiving and processing said first and second signals transmitted from said first sensor (col. 2 line 54 - col. 3 line 15; col. 3 lines 43-54);
 - (ii) generating a reminder message for display to said user to perform said scheduled task (col. 4 lines 17-20; col. 9 lines 26 - col. 10 line 4);

(iii) automatically removing said reminder message upon receiving said second signal from said first sensor indicating completion of said scheduled task (col. 4 lines 20-22; col. 9 lines 26-38).

As per claim 3, Fernandez teaches the invention as claimed, including the system of claim 1, further comprising software means for enabling the user to program the scheduler (col. 5 lines 5-13; col. 6 lines 43-49).

As per claim 4, Fernandez teaches the invention as claimed, including the system of claim 3, wherein the scheduler is remotely programmed with data received from a remote server via a data (col. 9 lines 47-54).

As per claim 5, Fernandez teaches the invention as claimed, including the system of claim 1, further comprising a second sensor configured to:

remotely sense the presence of said object at a second intermediate location between said first and second locations (col. 3 lines 60-67; col. 6 lines 5-10);

cooperate with the first sensor and said monitoring means to determine the direction of movement of the object along the path of travel (col. 7 lines 56-67; col. 12 lines 4-19).

As per claim 6, Fernandez teaches the invention as claimed, further configured to manage multiple conditionally interrelated tasks (col. 9 lines 39-54).

As per claim 10, Fernandez teaches the invention as claimed, including the system of claim 7, wherein said home network further comprises computer code on a computer readable medium for use on said home network, said computer readable code configured for:

receiving first input data associated with a presence of an object (col. 3 lines 55-57; col. 6 lines 5-10),

receiving second input data representative of a scheduled task involving a user moving the object (col. 2 line 54 - col. 3 line 15; col. 3 lines 43-54), wherein the computer readable code comprises a scheduler application for generating output data for alerting the user to the task responsive to the reception of said first and second input data (col. 4 lines 17-20; col. 9 lines 26 - col. 10 line 4).

As per claim 12, Fernandez teaches the invention as claimed, including the system of claim 1 wherein said monitoring means is a component of a home network (col. 4 lines 3-10).

As per claim 13, Fernandez teaches the invention as claimed, including the system of claim 12 wherein said home network is wirelessly linked to a mobile computing device (col. 1 lines 33-36).

As per claim 18, Fernandez teaches the invention as claimed, including the method of claim 1, wherein said tag is programmable for identifying different objects via said first sensor (col. 5 lines 46-57).

As per claims 11 and 14-17, Fernandez teaches the invention as claimed, including a method of providing a service to a user of a task management system for use in a home environment, the system enabling the user to manage a task scheduled in advance, the task involving the user moving an object from a first location to a second location, the method comprising the acts performed by the system of claims 1, 5, 4, 3, and 7, respectively (col. 1 lines 33-50).

(10) Response to Argument

Appellant argues that Fernandez fails to teach several claimed features. Appellant alleges, “[n]owhere does Fernandez teach the feature of detecting the absence of the object at a particular location after it has been detected at the location.” Appellant also alleges that Fernandez fails to teach “Appellant’s feature of a first sensor configured to ‘transmit a second signal responsive to the remote sensing of the absence of said object at said first intermediate location between said first and second locations.’” These arguments can be found at page 5 line 11 - page 7 line 4 of Appellant’s brief.

In support of these arguments, Appellant merely reproduces the cited passages of Fernandez without any discussion of how the Fernandez disclosure fails to teach the claimed features. Appellant’s arguments amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Moreover, any alleged deficiency of Fernandez based on the absence of express claim language is not fatal to anticipation, as “[t]he use of patents as references is not limited to what the patentees describe as their own inventions or to the problems

with which they are concerned. They are part of the literature of the art, relevant for all they contain.” *See In re Heck*, 699 F.2d 1331, 1332-33 (Fed. Cir. 1983). MPEP § 2123 is clear on this point, stating that “a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill the art, including nonpreferred embodiments. *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804 (Fed. Cir.), *cert. denied*, 493 U.S. 975 (1989).

Despite the deficiencies in Appellant’s arguments, Examiner maintains that Fernandez does teach the claimed features. Fernandez is broadly related to an integrated network providing detailed monitoring, processing, and reporting of movable objects (col. 1 lines 33-42). The monitoring of objects can be used for any number of purposes, including ensuring timely delivery of products (col. 9 lines 51-54), retrieval of specific object information (col. 9 lines 55-65), ensuring timely delivery of hazardous objects (col. 9 line 66 - col. 10 line 4), as well as the claimed use of utilizing observed object movement in one or more monitored locations to assist in a scheduling scheme (col. 9 lines 26-29). A common feature among the cited uses is that the monitoring of objects can be used to ensure compliance with a temporal schedule, i.e. Fernandez broadly sets out to solve the same problem purported to be solved by Appellant’s claimed invention.

Regarding the specific features of (1) a first sensor configured to remotely sense the absence of an object and (2) transmit a signal responsive to the remote sensing of the absence of the object, Examiner respectfully submits that Fernandez clearly teaches these features. Fernandez essentially teaches a system including an object and map database structure communicatively coupled to a set of remote detectors set in fixed locations (col. 11 lines 7-17). Each detector provides a continuous real time data stream to the user controller to provide

information regarding any sensed object (col. 5 lines 17-21). The detector is continuously aware of the exact location of a monitored object and is constantly emitting signals regarding the current location of the object. Thus, the detector is configured to not only sense the presence of an object when it has moved within an observable area, but also to signal the user module when the object has moved out of the range for which the detector is responsible (col. 11 lines 52-57). This continuous data stream allows the user module to be constantly aware of the exact location of the object: when the object moves into a detector area, the detector provides a data stream regarding the location of the object; when the object moves out of the detector area, the detector data stream indicates the absence of the particular object; the movement processing module derives movement vectors so that it can anticipate the pending detector which will take over the monitoring (col. 11 lines 52-64; col. 12 lines 40-49, “target object is evidently observed to be located at certain location at particular time”). There is no doubt that Fernandez provides at least a first sensor that senses the presence of an object followed by a sensing of the absence when the object has moved outside a viewable area; continuous signals, i.e. a set of real-time data points, are provided regarding the sensed location of the object at any given instant.

Finally, Appellant argues that Fernandez fails to teach the claimed feature of automatically removing a reminder message upon receiving the signal corresponding to the absence of the object from the first sensor, indicating completion of the scheduled task. Appellant alleges that the cited passages of Fernandez focus only on the general description of recording or alerting and thus fail to teach removing a reminder message. Examiner maintains that this claimed feature follows easily from the above-discussed features of Fernandez, yet a brief overview will be provided such that it is made clear how Fernandez teaches using detectors

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and sensors together with a database and a user controller to provide such scheduling. The database is described as containing a schedule and ensuring timely completion of tasks on the schedule by notifying a user (col. 9 lines 11-54). Compliance is judged using an associated map structure that indicates the desired object location based on a schedule (col. 11 lines 36-51). Preferably, the scheduled task is deemed complete when a detector observes the object in the desired location, yet the movement-processing module is able to extrapolate movement vectors to determine a predicted object location (col. 13 lines 15-25). In any event, the communicating devices are able to make an accurate estimation as to whether the object is in the desired location as specified by the schedule, and alerting the user when the object is late, etc. (col. 9 lines 26-38). Although Fernandez does not always use the same precise claim language of Appellant's claims, a person having ordinary skill in the art would recognize that Fernandez teaches each and every limitation of the Appellant's claims, as well as additional features that expand upon the capabilities of Appellant's claims.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Syed Ali

February 15, 2006

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